

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

OFFICIAL

State: Maine

The agency does not apply the trust provision in any case in which the agency determines that such application would work an undue hardship.

The following criteria will be used to determine whether the agency will not count assets transferred because the penalty would work an undue hardship:

The agency does not apply the trust provisions in any case in which the agency determines that such application would work an undue hardship (procedure).

The following criteria will be used to determine whether the agency will not count assets transferred because doing so would work an undue hardship:

1. The individual was exploited as determined by the Department of Human Services Adult Protective Services, or, all of the following:
2. Neither the individual or spouse have the means to pay for nursing care services taking into consideration all exempt and non-exempt assets and income
3. The recipient of the transferred asset is unable to make the value of the transfer or any part of it available to pay for the individual's nursing care,
4. The individual must make all reasonable efforts, including taking appropriate legal action to recover the transferred asset or its equivalent value. The individual must cooperate with the Department and any recovery activity that is undertaken,
5. If the transferred assets or equivalent value are recovered, the individual will reimburse Medicaid for funds expended as a result of the approved claim of undue hardship, and
6. It is the responsibility of the individual to prove the claim of undue hardship.

Under the agency's undue hardship provisions, the agency exempts the funds in an irrevocable burial trust.

The maximum value of the exemption for an irrevocable burial trust is \$ no maximum

TN No. 95-009

Supersedes

TN No. 91-14

Approval Date: 8/23/96

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CONSIDERATION OF MEDICAID QUALIFYING TRUSTS--UNDUE HARDSHIP

1902(k)(4) of the
Act, P.L. 99-272
(Section 9506)

The following criteria will be used to determine whether the agency will not count the funds in a trust as specified in ATTACHMENT 2.6-A, section C:2., because it would work an undue hardship for categorically and medically needy individuals:

The State will determine undue hardship on an individual case basis.

TN No. 97-14
Supersedes
TN No. 86-12

Approval Date MAR 26 1992 Effective Date OCT 01 1991